

**BITTER TRUTH**

# Indian firms under pressure on drug patent regime, as global majors mount lobbying

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**WASHINGTON/NEW DELHI:** India is defending its patent regime more aggressively than ever before from attacks in the US that have come to define the state of ties between the two countries lately.

The first sign of this came at a US International Trade Commission hearing last week with a telling push-back from trade bodies from India.

They were supported by activists such as Medecins Sans Frontiers (Doctors without Borders), that have historically supported easy access to medicines, and US academics.

Together, they told the six-member commission conducting the hearing that India was in compliance with world patent regime — Trade Related Aspects of Intellectual Property Rights or TRIPS — or else someone would have dragged it to the WTO.

"Go for evidence based assessment and not perception-based (assessment)," Dilip Shah, director-general of Indian Pharmaceutical Alliance, told the commission.

India has decided to not appear before US bodies as a sovereignty issue.

US companies have been campaigning for tougher action against India alleging it was denying and violating world patent rules — TRIPS — specially in the pharmaceutical sector.

"It is not surprising that India is ranked at the bottom of the



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- ✦ It was to determine whether India's trade practices were harming US businesses
- ✦ Next week, India will come under scrutiny at US Trade Representatives' annual review of patent, trade practices affecting the US
- ✦ US companies have alleged that India was violating world patent rules
- ✦ The US chamber of commerce has asked the USTR to name India a "priority foreign country"
- ✦ The designation is reserved for the worst Intellectual property Rights offenders

pile along with Ukraine," said Ranjit Shahani of Novartis, whose cancer drug Glivec was denied a patent in 2013.

Glivec and German major Bayer's Nexavar (another cancer drug), which India compulsorily licensed out to a local maker in 2012, drive the case against India.

At stake for the drug industry, however, is not just the Indian market — expected to be worth \$55 billion by 2020, second only

to the US in volumes — but other emerging markets.

"The 'Indian model' that I have described today offers an appealing, if misguided alternative for many countries," Bayer's Julie Corcoran said at the hearing.

She cited as proof South Africa's recently released draft drug policy that "makes several explicit references to the Indian experience", as the "driving force".

The USITC hearing was part of a probe mandated by the US Congress to determine if India's trade practices were harming US businesses. Next week, India will come under scrutiny at the US Trade Representatives' annual Special 301 worldwide review of patent and trade practices affecting the US.

The US chamber of commerce has asked the USTR to name India a "priority foreign country", a designation reserved for the worst Intellectual property Rights (IPR) offenders.

Ukraine is currently the only country in that category.

India is being defended by its private sector; Medecins Sans Frontieres and US academics.

"India's measures are fully compliant with global trade rules and with the laws of India," Rohit Malpani of Doctors without Borders told USITC. Malpani, a lawyer based in Geneva, went on to accuse the US of exerting "pressure on developing countries for using legal flexibilities to protect public health".

As the "pharmacy to the world", India needed to be protected, said Malpani.